IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

Bail Appl..No. 1488 of 2007()

C.R.NO.3/07 OF MANANTHAVADY EXCISE RANGE

: PETITIONERS/ACCUSED 1 & 2

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1. BABUTTY @ RAJEEVAN, S/O.BALAN,
   MADATHIL VELLAMPALLY VEEDU, PATTYAM DESOM,
   PATTYAM VILLAGE, THALASSERY TALUK.

2. RAJESH, S/O.DAMODARAN,
   KUNIYIL HOUSE, KEEZHANTHIMUKKU DESOM,
   THIRUVANGADE VILLAGE, THALASSERI TALUK.

BY ADV. SRI.CIBI THOMAS

RESPONDENTS: COMPLAINANT AND STATE

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1. THE EXCISE INSPECTOR,
   MANANTHAVADY EXCISE RANGE.

2. STATE REP. BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

B.A. No. 1488 OF 2007 A

Dated this the 13th day of March, 2007

O R D E R

Petitioners were accused Nos.1 and 2 in C.R. No. 3/2007 of Mananthavady Excise Range for an offence punishable under Section 55(a) of the Abkari Act for allegedly carrying 34.9 litres of IMFL in an autorikshaw on 13.2.2007 and who were arrested on the same day, seek their enlargement on bail.

2. Learned Public Prosecutor opposed the application submitting, inter alia, that the first petitioner, who is the first accused, is an accused in other crimes involving similar offences. If so, I am not satisfied that both the grounds enumerated under sec.41A (b)(ii) of the Abkari Act are present in this case so as to justify the grant of anticipatory bail to the first petitioner. I am, however, inclined to grant bail to the 2nd petitioner, who is the 2nd accused, since he is not shown to be involved in other crimes. Accordingly, the 2nd petitioner is directed to be released on bail on his executing a bond for Rs.20,000/- (Rupees twenty thousand only) with two solvent sureties each for the like amount to the satisfaction of the J.F.C.M.-I, Mananthavady and subject to the following conditions:

a. 2nd Petitioner shall report before the Investigating Officer between 9 a.m. and 11 a.m. on all Wednesdays.

b. 2nd petitioner shall make himself available for interrogation as and when required by the police till the filing of the final report.

c. 2nd petitioner shall not influence or intimidate the prosecution witnesses nor shall he attempt to tamper with the evidence for the prosecution.

d. 2nd petitioner shall not commit any offence while on bail.

If the 2nd petitioner commits breach of any of the above conditions, the bail granted to him shall be liable to be cancelled.

In the result, the request of the first petitioner for bail is refused and the second petitioner is granted bail as above.

This application is partly allowed as above.

(V. RAMKUMAR, JUDGE)

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